

Rural Utilities Service, USDA

§ 1717.151

AUTHORITY: 7 U.S.C. 901 *et seq.*, 1921 *et seq.*, 6941 *et seq.*

SOURCE: 55 FR 38646, Sept. 19, 1990, unless otherwise noted.

Subparts A–C [Reserved]

Subpart D—Mergers and Consolidations of Electric Borrowers

SOURCE: 61 FR 66871, Dec. 19, 1996, unless otherwise noted.

§ 1717.150 General.

(a) This subpart establishes RUS policies and procedures for mergers of electric borrowers. These policies and procedures are intended to provide borrowers with the flexibility to negotiate and enter into mergers that offer advantages to the borrowers and to rural communities, and adequately protect the integrity and credit quality of RUS loans and loan guarantees.

(b) Consistent with prudent lending practices, the maintenance of adequate security for RUS loans and loan guarantees, and the objectives of the Rural Electrification Act of 1936, as amended, (7 U.S.C. 901 *et seq.*) (RE Act), RUS encourages electric borrowers to consider mergers when such action is likely to contribute, in the long-term, to greater operating efficiency and financial soundness. Borrowers are specifically encouraged to explore mergers that are likely to enhance the ability of the successor to provide reliable electric service at reasonable cost to RE Act beneficiaries.

(c) Pursuant to the loan documents and RUS regulations, certain mergers are subject to RUS approval. See § 1717.615.

(d) Since RUS must take action in order to advance funds and otherwise conduct business with a successor, RUS encourages borrowers to consult RUS early in the process regardless of whether RUS approval of the merger is required. RUS will provide technical assistance and guidance to borrowers to help expedite the processing of their requests and to help resolve potential problems early in the process.

§ 1717.151 Definitions.

The definitions set forth in 7 CFR 1710.2 are applicable to this subpart unless otherwise stated. In addition, for the purpose of this subpart, the following terms shall have the following meanings:

Active borrower means an electric borrower that has, on the effective date, an outstanding insured or guaranteed loan from RUS for rural electrification, and whose eligibility for future RUS financing is not restricted pursuant to 7 CFR part 1786.

Active distribution borrower means an electric distribution borrower that has, on the effective date, an outstanding insured or guaranteed loan from RUS for rural electrification, and whose eligibility for future RUS financing is not restricted pursuant to 7 CFR part 1786.

Consolidation. See *Merger*.

Coverage ratios means collectively TIER, OTIER, DSC and ODSC, as these terms are defined in 7 CFR 1710.2.

Effective date means the date a merger is effective pursuant to applicable state law.

Former distribution borrower means any organization that

(1) Sells or intends to sell electric power and energy at retail;

(2) At one time had an outstanding loan made or guaranteed by RUS, or its predecessor the Rural Electrification Administration (REA) for rural electrification; and

(3) Either repaid such loans at face value or prepaid pursuant to 7 CFR part 1786.

Loan documents means the mortgage (or other security instrument acceptable to RUS), the loan contract, and the promissory note(s) entered into between the borrower and RUS.

Merger means: (1) A consolidation where two or more companies are extinguished and a new successor is created, acquiring the assets, liabilities, franchises and powers of those passing out of existence;

(2) A merger where one company is absorbed by another, the former ceasing to exist as a separate business entity, and the latter retaining its own identity and acquiring the assets, liabilities, franchises and powers of the former; or